

EX PARTE COMMUNICATION DISCLOSURE FORM


Filed by: Erika Giorgi

- 1) Project (e.g. covered action): Smith Canal Gate Project
- 2) Date and time of receipt of communication: Saturday, 1:46 pm
- 3) Location and means of communication: Email communication
- 4) Identity of person(s) initiating communication: Ernest Tufft
- 5) Identity of person(s) on whose behalf communication was made: n/a
- 6) Identity of persons(s) receiving communication: Erika Giorgi
- 7) Identity of all person(s) present during the communication: n/a

Describe the substance of the communication and any response (use extra pages if necessary; attach copies of any written communications and materials presented):

On Saturday, January 5, at 1:48pm I received the attached email from Mr. Tufft. On Monday, January 7, 2019, I responded with the attached email and posted his email and my response to the covered action page.

1/7/19
Date


Signature

PURPOSE OF DISCLOSURE FORM: The Delta Stewardship Council's Administrative Procedures Governing Appeals require members to avoid ex parte communications while an appeal is pending. If members nevertheless receive one, the member needs to notify the Council's Chief Counsel or Executive Officer so that they may take appropriate measures (see para. 27).

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Council's Chief Counsel and Executive Officer immediately following receipt of the communication.

Giorgi, Erika@DeltaCouncil

From: Ernest Tufft <atufft@gmail.com>
Sent: Saturday, January 5, 2019 1:45 PM
To: Giorgi, Erika@DeltaCouncil
Subject: Need Help with Smith Canal C20188
Attachments: Complaints about Smith Canal Gate - atufft@gmail.com - Gmail.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Erika,

I'm not an attorney nor flood control engineer eager to build another project, I'm just a homeowner trying to defend the waterfront and environment of the Smith Canal. I'm not alone, ever since SJAFCA floated this gate idea in the 1990's, property owners up and down the canal have either been unaware of what's going on or are vigorously opposed to this project. Wealthy Atherton Cove have taken an independent legal approach for a long time, but Friends of the Smith Canal, and various engineers opposed to the idea have lobbied SJAFAC. Some of this is in SJAFCA public records, and some has been edited out by SJAFCA attorney according to a board decision last year. SJAFCA out reach is limited to the neighborhood adjacent to the location of the gate, but the gate will have profound negative effects along the entire length of the canal.

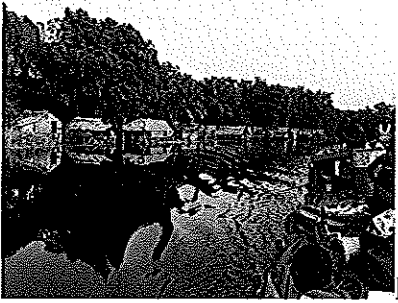
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I sent copy of a letter that outlines my concerns about the DSC permit, arguing that any of a number of issues listed and required by the DSC can be shown to be unmet by the SJAFCA EIR and its application. The EIR only addresses the immediate location of the construction project, and maybe as far as I-5 to the east, but the narrowing of the channel will have profound effects on the health and vitality of the Smith Canal ecosystem, primarily by reducing oxygenation of water and eventual siltation of the canal itself. SJAFCA own EIR shows high face validity that this will be the case, then summarizes "not significant" as if this can be concluded for the whole of the water channel.

Please read the attached and advise me as to how I can make this satisfy the DSC complex of requirements. Sorry if this message of if you see duplication of lack of support, this process came as a surprise. We have a very beautiful world-class waterway with fish and birds living as best they can given government neglect.

Ernest Tufft
(209) 662-0713
atufft@gmail.com
CrazyGuyonaBike.com

[YouTube.com](https://www.youtube.com)



Giorgi, Erika@DeltaCouncil

From: Giorgi, Erika@DeltaCouncil
Sent: Monday, January 7, 2019 9:34 AM
To: 'Ernest Tufft'
Subject: RE: Need Help with Smith Canal C20188

Mr. Tuft

Thank you for your email. I have posted it and your other email to our covered action page for this appeal (https://coveredactions.deltacouncil.ca.gov/profile_summary.aspx?c=86b4471f-f63c-4cd3-97b0-ebaf91324c49) and it will be provided, with other comments received by the Council, to the Councilmembers. For more information on the appeal process, please see the following link: <http://deltacouncil.ca.gov/what-appeal> . Also, please see the public notice for the public hearing on this appeal: <https://coveredactions.deltacouncil.ca.gov/Services/download.ashx?u=ab6c49ba-4d3b-4af5-b745-08ce22da7fa0> As explained in the notice, during the public hearing there will be an opportunity to for members of the public to present public comments to the Councilmembers.

Please note the Council's appellate proceedings are subject to the prohibition on ex parte communications. (Gov. Code § 11430.10 et seq; Administrative Procedures §§ 26-28.) Parties and interested persons, including any employees or representatives, may not communicate directly or indirectly with Council members or Council staff such as myself regarding any issue in this proceeding, without notice and opportunity for all parties to participate in the communication. (Gov. Code § 11430.10.) The only exceptions to this prohibition are communications required for disposition of an ex parte matter specifically authorized by statute, or communications concerning a matter of procedure or practice that is not in controversy. (Gov. Code § 11430.20.) If you have any questions concerning matters of procedure or practice that are not in controversy, please feel free to contact me.

Erika

Erika Giorgi
Senior Attorney
Delta Stewardship Council
980 9th Street, Suite 1500
Sacramento, CA 95814
916-445-5891 office
Erika.Giorgi@deltacouncil.ca.gov

From: Ernest Tufft <atufft@gmail.com>
Sent: Saturday, January 5, 2019 1:45 PM
To: Giorgi, Erika@DeltaCouncil <Erika.Giorgi@deltacouncil.ca.gov>
Subject: Need Help with Smith Canal C20188

Erika,

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Giorgi, Erika@DeltaCouncil

From: Ernest Tufft <atufft@gmail.com>
Sent: Monday, January 7, 2019 10:06 AM
To: Giorgi, Erika@DeltaCouncil
Subject: Re: Need Help with Smith Canal C20188

Erika—

Thanks for your reply and effort. I used the link you gave me but can't find the e-mail that I sent. Could you be more specific as to title link?

I will also submit public comment in support of appeal, which duplicates some information from e-mail with more detail.

Sent from my iPhone

Ernest Tufft
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The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy.

Martin Luther King

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On Jan 7, 2019, at 9:33 AM, Giorgi, Erika@DeltaCouncil <Erika.Giorgi@deltacouncil.ca.gov> wrote:

Mr. Tuft

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From: Giorgi, Erika@DeltaCouncil
Sent: Monday, January 7, 2019 10:49 AM
To: Ernest Tufft
Subject: RE: Need Help with Smith Canal C20188

The following link should direct you to your email:

<https://coveredactions.deltacouncil.ca.gov/Services/download.ashx?u=4492cfbe-b3d7-4edb-8cc5-20b18613c8b5>
Erika

Erika Giorgi
Senior Attorney
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